

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION

ROCKWAY AND JALIA STUDEBAKER,	)	CASE NO.: 3:07CV0421
et al.,	)	
	)	JUDGE THOMAS M. ROSE
Plaintiffs,	)	
	)	<b><u>ANSWER OF DEFENDANTS FERDIE</u></b>
vs.	)	<b><u>MURPHY, JR. AND CASTLEBROOK</u></b>
	)	<b><u>REALTY INC. aka CASTLEBROOK</u></b>
ACC CAPITAL HOLDINGS	)	<b><u>APPRAISALS TO PLAINTIFFS'</u></b>
CORPORATION AND AFFILIATE	)	<b><u>COMPLAINT</u></b>
AMERIQUEST MORTGAGE COMPANY,	)	
et al.,	)	<b><u>(Jury Demand Endorsed Hereon)</u></b>
	)	
Defendants	)	

Now come Defendants Ferdie Murphy, Jr. and Castlebrook Realty Inc. aka Castlebrook Appraisals (collectively "Castlebrook"), by and through their counsel, Thomas S. Mazanec and Jeffery S. Maynard of Mazanec, Raskin, Ryder & Keller Co., LPA, and for their answer to Plaintiffs' Complaint state as follows:

1. Castlebrook denies the allegations contained in Paragraphs 1, 2, 3, 4, 5, 6, and 7 of Plaintiffs' Complaint for want of knowledge, information and otherwise.
2. Castlebrook admits the allegations contained in Paragraphs 8, 9, and 10 of Plaintiffs' Complaint.
3. Castlebrook denies the allegations contained in Paragraphs 11, 12, 13, 14, and 15 of Plaintiffs' Complaint for want of knowledge, information and otherwise.
4. Castlebrook states that Exhibits 1 and 2 of Plaintiffs' Complaint speak for themselves. Further answering, Castlebrook denies the allegations contained in Paragraph 16 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

5. Castlebrook denies the allegation contained in Paragraph 17 of Plaintiffs' Complaint for want of knowledge, information or otherwise.

6. Castlebrook states that Exhibit 3 to Plaintiffs' Complaint speaks for itself. Further answering, Castlebrook denies the allegation contained in Paragraph 18 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

7. Castlebrook denies the allegations contained in Paragraphs 19 and 20 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

8. Castlebrook states that Exhibit 4 of Plaintiffs' Complaint speaks for itself. Further answering, Castlebrook denies the allegation contained in Paragraph 21 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

9. Castlebrook denies the allegations contained in Paragraphs 22, 23, 24, 25, and 26 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

10. Castlebrook states that Exhibit 5 of Plaintiffs' Complaint speaks for itself. Further answering, Castlebrook denies the allegation contained in Paragraph 27 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

11. Castlebrook states that Exhibit 6 of Plaintiffs' Complaint speaks for itself. Further answering, Castlebrook denies the allegation contained in Paragraph 28 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

12. Castlebrook denies the allegation contained in Paragraph 29 of Plaintiffs' Complaint for want of knowledge, information or otherwise.

13. Castlebrook states that Exhibit 7 of Plaintiffs' Complaint speaks for itself. Further answering, Castlebrook denies the allegation contained in Paragraph 30 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

14. Castlebrook denies the allegations contained in Paragraphs 31 and 32 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

15. Castlebrook states that Exhibit 8 of Plaintiffs' Complaint speaks for itself. Further answering, Castlebrook denies the allegation contained in Paragraph 33 of Plaintiffs' Complaint for want of knowledge, information or otherwise.

16. Castlebrook states that Exhibit 9 of Plaintiffs' Complaint speaks for itself. Further answering, Castlebrook denies the allegation contained in Paragraph 34 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

17. Castlebrook denies the allegations in Paragraphs 35, 36, 37, 38, 39, 40, 41, 42, and 43 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

18. Castlebrook states that Exhibits 10 and 11 of Plaintiffs' Complaint speak for themselves. Further answering, Castlebrook denies the allegation contained in Paragraph 44 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

19. Castlebrook denies the allegations contained in Paragraphs 45 and 46 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

20. Castlebrook states that Exhibit 12 of Plaintiffs' Complaint speaks for itself. Further answering, Castlebrook denies the allegation contained in Paragraph 47 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

21. Castlebrook states that Exhibit 13 of Plaintiffs' Complaint speaks for itself. Further answering, Castlebrook denies the allegation contained in Paragraph 48 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

22. Castlebrook states that Exhibit 14 of Plaintiffs' Complaint speaks for itself. Further answering, Castlebrook denies the allegation contained in Paragraph 49 of Plaintiffs' Complaint for want of knowledge, information or otherwise.

23. Castlebrook denies the allegation contained in Paragraph 50 of Plaintiffs' Complaint.

24. Castlebrook admits the allegation contained in Paragraph 51 of Plaintiffs' Complaint.

25. Castlebrook denies the allegations contained in Paragraphs 52 and 53 of Plaintiffs' Complaint.

26. Castlebrook admits the allegations contained in Paragraph 54 and 55 of Plaintiffs' Complaint.

27. Castlebrook denies the allegations contained in Paragraphs 56, 57, 58, 59, and 60 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

28. Castlebrook states that Exhibit 15 of Plaintiffs' Complaint speaks for itself. Further answering, Castlebrook denies the allegation contained in Paragraph 61 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

29. Castlebrook denies the allegations contained in Paragraphs 62, 63, 64, 65, 66, 67, and 68 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

30. Castlebrook states that Exhibit 16 of Plaintiffs' Complaint speaks for itself. Further answering, Castlebrook denies the allegation contained in Paragraph 69 of Plaintiffs' Complaint for want of knowledge, information or otherwise.

31. Castlebrook states that Exhibit 17 of Plaintiffs' Complaint speaks for itself. Further answering, Castlebrook denies the allegation contained in Paragraph 70 of Plaintiffs' Complaint for want of knowledge, information or otherwise.

32. Castlebrook states that Exhibit 18 of Plaintiffs' Complaint speaks for itself. Further answering, Castlebrook denies the allegation contained in Paragraph 71 of Plaintiffs' Complaint for want of knowledge, information or otherwise.

33. Castlebrook denies the allegations contained in Paragraphs 72 and 73 of Plaintiffs' Complaint for want of knowledge, information or otherwise.

34. In response to the allegation contained in Paragraph 74 of Plaintiffs' Complaint, Castlebrook re-alleges and re-avers each and every answer set forth to the allegations contained in Paragraphs 1 through 73 of Plaintiffs' Complaint as if fully rewritten herein.

35. Castlebrook denies the allegations contained in Paragraphs 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, and 103 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

36. In response to the allegation contained in Paragraph 104 of Plaintiffs' Complaint, Castlebrook re-alleges and re-avers each and every answer set forth to the allegations contained in Paragraphs 1 through 103 of Plaintiffs' Complaint as if fully rewritten herein.

37. Castlebrook denies the allegations contained in Paragraphs 105, 106, and 107 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

38. In response to the allegation contained in Paragraph 108 of Plaintiffs' Complaint, Castlebrook re-alleges and re-avers each and every answer set forth to the allegations contained in Paragraphs 1 through 107 of Plaintiffs' Complaint as if fully rewritten herein.

39. Castlebrook denies the allegations contained in Paragraphs 109, 110, 111, 112, and 113 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

40. In response to the allegation contained in Paragraph 114 of Plaintiffs' Complaint, Castlebrook re-alleges and re-avers each and every answer set forth to the allegations contained in Paragraphs 1 through 113 of Plaintiffs' Complaint as if fully rewritten herein.

41. Castlebrook denies the allegations contained in Paragraphs 115, 116, 117, 118, 119, 120, 121, and 122 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

42. In response to the allegation contained in Paragraph 123 of Plaintiffs' Complaint, Castlebrook re-alleges and re-avers each and every answer set forth to the allegations contained in Paragraphs 1 through 122 of Plaintiffs' Complaint as if fully rewritten herein.

43. Castlebrook denies the allegations contained in Paragraphs 124, 125, 126, 127, and 128 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

44. In response to the allegation contained in Paragraph 129 of Plaintiffs' Complaint, Castlebrook re-alleges and re-avers each and every answer set forth to the allegations contained in Paragraphs 1 through 128 of Plaintiffs' Complaint as if fully rewritten herein.

45. Castlebrook denies the allegations contained in Paragraphs 130, 131, 132, 133, 134, 135 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

46. In response to the allegation contained in Paragraph 136 of Plaintiffs' Complaint, Castlebrook re-alleges and re-avers each and every answer set forth to the allegations contained in Paragraphs 1 through 135 of Plaintiffs' Complaint as if fully rewritten herein.

47. Castlebrook denies the allegations contained in Paragraphs 137, 138, 139, 140, 141, and 142 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

48. Castlebrook denies the allegations contained in Paragraphs 143 and 144 of Plaintiffs' Complaint.

49. Castlebrook denies the allegations contained in Paragraphs 145, 146, and 147 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

50. In response to the allegations contained in Paragraph 148 of Plaintiffs' Complaint, Castlebrook re-alleges and re-avers each and every answer set forth to the allegations contained in Paragraphs 1 through 147 of Plaintiffs' Complaint as if fully rewritten herein.

51. Castlebrook denies the allegations contained in Paragraphs 149, 150, 151, 152, 153, and 154 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

52. In response to the allegation contained in Paragraph 155 of Plaintiffs' Complaint, Castlebrook re-alleges and re-avers each and every answer set forth to the allegations contained in Paragraphs 1 through 154 of Plaintiffs' Complaint as if fully rewritten herein.

53. Castlebrook denies the allegations contained in Paragraphs 156, 157, 158, 159, 160, 161, 162, and 163 of Plaintiffs' Complaint.

54. In response to the allegations contained in Paragraph 164 of Plaintiffs' Complaint, Castlebrook re-alleges and re-avers each and every answer set forth to the allegations contained in Paragraphs 1 through 163 of Plaintiffs' Complaint as if fully rewritten herein.

55. Castlebrook denies the allegations contained in Paragraphs 165, 166, 167, 168, and 169, to include sub-parts a, b, and c of Plaintiffs' Complaint for want of knowledge, information and otherwise.

56. In response to the allegations contained in Paragraph 170 of Plaintiffs' Complaint, Castlebrook re-alleges and re-avers each and every answer set forth to the allegations contained in Paragraphs 1 through 169 of Plaintiffs' Complaint as if fully rewritten herein.

57. Castlebrook denies the allegations contained in Paragraph 171, 172, 173, 174, 175, 176, and 177 of Plaintiffs' Complaint for want of knowledge, information and otherwise.

#### **FIRST AFFIRMATIVE DEFENSE**

58. Further answering and as an additional defense to the allegations contained in Plaintiffs' Complaint, Castlebrook states that Plaintiffs' Complaint fails to state a claim upon which relief may be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

59. Further answering and as an additional defense to the allegations contained in Plaintiffs' Complaint, Castlebrook states that Plaintiffs' alleged damages were proximately caused by the sole or contributory negligence of others.

**THIRD AFFIRMATIVE DEFENSE**

60. Further answering and as an additional defense to the allegations contained in Plaintiff's Complaint, Castlebrook states that it owed no duty to Plaintiffs.

**FOURTH AFFIRMATIVE DEFENSE**

61. Further answering and as an additional defense to the allegations contained in Plaintiffs' Complaint, Castlebrook states that it breached no duty owed to the Plaintiffs.

**FIFTH AFFIRMATIVE DEFENSE**

62. Further answering and as an additional defense to the allegations contained in Plaintiffs' Complaint, Castlebrook states that Plaintiffs have failed to name parties necessary for just adjudication pursuant to Civ.R. 19 and 19.1.

**SIXTH AFFIRMATAIVE DEFENSE**

63. Further answering and as an additional defense to the allegations contained in Plaintiffs' Complaint, Plaintiff states that the appraisals on the Studebaker Property and the Mullins Property were not substantial overstatements of the value of the respective properties.

**SEVENTH AFFIRMATIVE DEFENSE**

64. Further answering and as an additional defense to the allegations contained in Plaintiffs' Complaint, Castlebrook states that it followed standard appraisal practices.

**EIGHTH AFFIRMATIVE DEFENSE**

65. Further answering and as an additional defense to the allegations contained in Plaintiffs' Complaint, Castlebrook states that Plaintiffs failed to file their action within the applicable statute of limitations.



**NINTH AFFIRMATIVE DEFENSE**

66. Further answering and as an additional defense to the allegations contained in Plaintiffs' Complaint, Castlebrook states that Plaintiffs' Complaint is barred by the doctrine of laches.

**TENTH AFFIRMATIVE DEFENSE**

67. Further answering and as an additional defense to the allegations contained in Plaintiffs' Complaint, Castlebrook states that Plaintiffs' Complaint is barred by the doctrine of estoppel.

**ELEVENTH AFFIRMATIVE DEFENSE**

68. Further answering and as an additional defense to the allegations contained in Plaintiffs' Complaint, Castlebrook states that Plaintiffs' damages, if any, were caused by intervening or intentional acts or conduct of third-parties outside the control of these answering Defendants.

**TWELFTH AFFIRMATIVE DEFENSE**

69. Further answering and as an additional defense to the allegations contained in Plaintiffs' Complaint, Castlebrook states that Plaintiffs' third claim for fraud is not plead with the particularity as required by required by Civ. R. 9(b) of the Ohio Rules of Civil Procedure.

**THIRTEENTH AFFIRMATIVE DEFENSE**

70. Further answering and as an additional defense to the allegations contained in Plaintiffs' Complaint, Castlebrook states that the Ohio Appraisers' Statute, R.C. §4763.10, *et seq.*, does not provide a private cause of action and, therefore, is barred under Ohio law.

**FOURTEENTH AFFIRMATIVE DEFENSE**

69. Further answering, and as an additional defense to the allegations contained in Plaintiffs' Complaint, Castlebrook reserves the right to raise additional affirmative defense as they become known during the course of this litigation.

**WHEREFORE**, having fully answered the allegations set forth in Plaintiffs' Complaint, Defendants Ferdie Murphy, Jr. and Castlebrook Realty Inc. aka Castlebrook Appraisals respectfully request that all claims against them be dismissed, at Plaintiffs' costs, and that Plaintiffs' reimburses Defendant Ferdie Murphy, Jr. and Castlebrook Realty Inc. aka Castlebrook Appraisals for their costs and attorney fees.

Respectfully submitted,

MAZANEC, RASKIN, RYDER & KELLER CO., LPA

/s/ Jeffery S. Maynard

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*Counsel for Defendants Ferdie Murphy, Jr. and  
Castlebrook Realty Inc. aka Castlebrook Appraisals*

**JURY DEMAND**

A trial by jury composed of the maximum number of jurors permitted under the law is hereby demanded.

/s/ Jeffery S. Maynard

THOMAS S. MAZANEC (0009050)

JEFFREY S. MAYNARD (0073629)

*Counsel for Defendants Ferdie Murphy, Jr. and  
Castlebrook Realty Inc. aka Castlebrook Appraisals*

**CERTIFICATE OF SERVICE**

A copy of the foregoing *Answer* was served December 31, 2007 by this Court's electronic docketing system and depositing same in first-class United States mail, postage prepaid, to the following:

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*Defendant*

*Defendant*

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/s/ Jeffery S. Maynard

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